

# EXHIBIT A

**Rogers, David M.**

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**From:** Rogers, David M.  
**Sent:** Tuesday, September 18, 2018 3:55 PM  
**To:** 'Marc Alpert'  
**Cc:** Richard Denney  
**Subject:** RE: Kashper: Depos of Dr Ziewjewski

Marc, you need to speak with me about this. Richard does not have an appearance in the case.

Dave Rogers  
Campbell Campbell Edwards & Conroy  
1 Constitution Wharf, Suite 310  
Boston MA 02129  
w: 617 241-3063  
c: 617 285-9091  
[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)

---

**From:** Marc Alpert [<mailto:marcalpert2015@gmail.com>]  
**Sent:** Tuesday, September 18, 2018 3:52 PM  
**To:** Rogers, David M.  
**Cc:** Richard Denney  
**Subject:** Re: Kashper: Depos of Dr Ziewjewski

Richard is going to talk to you about this--Marc

On Tue, Sep 18, 2018 at 8:30 AM Rogers, David M. <[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)> wrote:

Marc, I am going to give this one more try before filing a motion to preclude Dr. Ziewjewski. The only remaining dates on which I can depose him before Toyota's experts are going to be deposed are: September 27, 28 or October 5<sup>th</sup>. If you do not agree to produce him for a deposition on one of these three dates by the end of business today, I will file a motion to preclude him from testifying.

Dave Rogers  
Campbell Campbell Edwards & Conroy  
1 Constitution Wharf, Suite 310  
Boston MA 02129

w: 617 241-3063

c: 617 285-9091

[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)

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**From:** Rogers, David M.  
**Sent:** Monday, September 17, 2018 8:11 AM  
**To:** Marc Alpert  
**Cc:** Grace V. B. Garcia; Kate Messinger; Lantry, Jacob J.  
**Subject:** RE: Kashper: Depos of Dr Ziewjewski

Marc, following up, when are you available for a conversation today with me today or tomorrow pursuant to Local Rule 7.1? Please advise.

Dave Rogers

Campbell Campbell Edwards & Conroy

1 Constitution Wharf, Suite 310

Boston MA 02129

w: 617 241-3063

c: 617 285-9091

[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)

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**From:** Rogers, David M.  
**Sent:** Saturday, September 15, 2018 4:10 PM  
**To:** Marc Alpert  
**Cc:** Grace V. B. Garcia; Kate Messinger; Lantry, Jacob J.  
**Subject:** Re: Kashper: Depos of Dr Ziewjewski

Marc, when are you available on Monday for a meet and confer per the local USDC rules. I intend to file a motion to preclude him from testifying. Do you agree to that motion?

Dave Rogers

Campbell Campbell Edwards & Conroy

1 Constitution Wharf, Suite 310

Boston MA 02129

w: 617 241-3063

c: 617 285-9091

drogers@campbell-trial-lawyers.com

On Sep 15, 2018, at 11:00 AM, Marc Alpert <marcalpert2015@gmail.com> wrote:

My apologies somehow I did not notice your e-mail on Friday. Dr. Ziejewski will not be doing the deposition on the 18th. If Dr. Ziejewski does not return the \$1200.00 paid to him for the deposition, I will do so.--Marc Alpert

On Sat, Sep 15, 2018 at 8:21 AM Rogers, David M. <drogers@campbell-trial-lawyers.com> wrote:

Marc, I guess I have no choice given your failure to respond but to cancel my travel plans for Monday. Please contact me Monday.

Dave Rogers

Campbell Campbell Edwards & Conroy

1 Constitution Wharf, Suite 310

Boston MA 02129

w: 617 241-3063

c: 617 285-9091

drogers@campbell-trial-lawyers.com

On Sep 14, 2018, at 10:14 AM, Rogers, David M. <drogers@Campbell-trial-lawyers.com> wrote:

Marc, what is the story? I want to proceed and am traveling Monday.

Dave Rogers

Campbell Campbell Edwards & Conroy

1 Constitution Wharf, Suite 310

Boston MA 02129

w: 617 241-3063

c: 617 285-9091

drogers@campbell-trial-lawyers.com

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This email has been scanned for spam and viruses. Click [here](#) to report this email as spam.

**Rogers, David M.**

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**From:** Rogers, David M.  
**Sent:** Saturday, September 15, 2018 8:21 AM  
**To:** marcalpert2015@gmail.com  
**Cc:** Lantry, Jacob J.; Kate Messinger; Visocchi, Julia A.  
**Subject:** Re: Kashper: Depos of Dr Ziewjewski

Marc, I guess I have no choice given your failure to respond but to cancel my travel plans for Monday. Please contact me Monday.

Dave Rogers  
Campbell Campbell Edwards & Conroy  
1 Constitution Wharf, Suite 310  
Boston MA 02129  
w: [617 241-3063](tel:6172413063)  
c: [617 285-9091](tel:6172859091)  
[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)

On Sep 14, 2018, at 10:14 AM, Rogers, David M. <[drogers@Campbell-trial-lawyers.com](mailto:drogers@Campbell-trial-lawyers.com)> wrote:

Marc, what is the story? I want to proceed and am traveling Monday.

Dave Rogers  
Campbell Campbell Edwards & Conroy  
1 Constitution Wharf, Suite 310  
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w: [617 241-3063](tel:6172413063)  
c: [617 285-9091](tel:6172859091)  
[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)

**Rogers, David M.**

---

**From:** Rogers, David M.  
**Sent:** Wednesday, September 12, 2018 2:33 PM  
**To:** 'Marc Alpert'; 'KMessinger@morrissonmahoney.com'  
**Cc:** Lantry, Jacob J.; 'GGarcia@morrissonmahoney.com'  
**Subject:** RE: Cancel Ziejewski deposition

I booked non-refundable flights. If he is not going to attend the deposition as scheduled, you are going to have to pay the cost.

Dave Rogers  
Campbell Campbell Edwards & Conroy  
1 Constitution Wharf, Suite 310  
Boston MA 02129  
w: 617 241-3063  
c: 617 285-9091  
[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)

---

**From:** Rogers, David M.  
**Sent:** Wednesday, September 12, 2018 2:29 PM  
**To:** 'Marc Alpert'; [KMessinger@morrissonmahoney.com](mailto:KMessinger@morrissonmahoney.com)  
**Cc:** Lantry, Jacob J.; [GGarcia@morrissonmahoney.com](mailto:GGarcia@morrissonmahoney.com)  
**Subject:** RE: Cancel Ziejewski deposition

Unacceptable.

Dave Rogers  
Campbell Campbell Edwards & Conroy  
1 Constitution Wharf, Suite 310  
Boston MA 02129  
w: 617 241-3063  
c: 617 285-9091  
[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)

---

**From:** Marc Alpert [<mailto:trepla2380@juno.com>]  
**Sent:** Wednesday, September 12, 2018 2:22 PM  
**To:** Rogers, David M.; [KMessinger@morrissonmahoney.com](mailto:KMessinger@morrissonmahoney.com)  
**Cc:** Lantry, Jacob J.; [GGarcia@morrissonmahoney.com](mailto:GGarcia@morrissonmahoney.com)  
**Subject:** Cancel Ziejewski deposition

Have to cancel Dr. Ziejewski's deposition scheduled for the 18th

Marc S. Alpert,  
Marc S. Alpert, P.C.  
15 Court Square , #940  
Boston, MA 02108-2524  
Phone: 617 227-2380  
Fax: 866-393-2857  
e-mail: [trepla2380@juno.com](mailto:trepla2380@juno.com)

---

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**Rogers, David M.**

---

**From:** Rogers, David M.  
**Sent:** Monday, September 10, 2018 11:44 AM  
**To:** 'Marc Alpert'  
**Cc:** Visocchi, Julia A.; Lantry, Jacob J.  
**Subject:** FW: Kashper: 2018.09.10 LT Mariusz Ziejewski, Ph.D. \$1,200 payment for depo fee.PDF  
**Attachments:** 2018.09.10 LT Mariusz Ziejewski, Ph.D. \$1,200 payment for depo fee.PDF

Marc, fyi.

Dave Rogers  
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CAMPBELL CAMPBELL EDWARDS & CONROY  
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FAX: (617) 241 5115

DAVID M. ROGERS  
(617) 241-3063  
[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)

September 10, 2018

*Via Federal Express*

Mariusz Ziejewski, Ph.D.  
MZ Engineering  
2363 20<sup>th</sup> Avenue South  
Fargo, ND 58103

Re: *Anna Kashper v. Toyota Motor Sales, U.S.A., Inc., et al*  
USDC Massachusetts, Docket No. C.A. No. 1:17-cv-12462-WGY

Dear Mr. Ziejewski:

In reference to the above matter, enclosed is the \$1,200.00 payment for your deposition fee.

Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "David M. Rogers", written over a horizontal line.

David M. Rogers

DMR:jav  
Enclosure

cc: Marc S. Alpert, Esq.



No. 024950

TD BANK  
AMERICA'S MOST CONVENIENT BANK 53-7054/211  
4825

VOID AFTER 60 DAYS

DATE	CHECK NO.	AMOUNT
9/7/2018	24950	***1,200.00***

\*\*\*One Thousand, Two Hundred & No/100 Dollars\*\*\*

PAY  
TO THE  
ORDER OF

MZ Engineering  
2363 20th Avenue South  
Fargo ,ND 58103

CAMPBELL CAMPBELL EDWARDS & CONROY  
PROFESSIONAL CORPORATION  
OPERATING ACCOUNT

BY *[Signature]*

⑈024950⑈ ⑆211370545⑆ 8249626257⑈

CAMPBELL CAMPBELL EDWARDS & CONROY

02495

9/7/2018 Check Number 24950 Check Amount \*\*1,200.00\*\*

MZ Engineering , 2363 20th Avenue South  
Fargo ,ND 58103

091818

322-162 322-162

\$1,200.00

\$1,200.00

# MZ Engineering

Mariusz Ziejewski, Ph.D.

2363 20th Avenue South  
Fargo, ND 58103  
Mariusz.Ziejewski@ndsu.edu

Phone: (701) 232-9223  
Fax: (701) 293-1454

September 5, 2018

Via fax only - 8166-393-2857

Mariusz Ziejewski, Ph.D.  
M. Alpert  
Attorney at Law

## INVOICE

Cient: Kashper

Deposition fee. Up to three (3) hours of deposition time, on 9/18/18. \$ 1,200.00

**BALANCE DUE \$ 1,200.00**

Please make check payable to: **MZ Engineering**  
2363 20<sup>th</sup> Avenue S  
Fargo, ND 58103

Our tax ID # 45-0435836

All charges are due upon receipt of invoice. A late payment charge on delinquent accounts will be billed at 1 1/2% per month.

**Rogers, David M.**

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**From:** Rogers, David M.  
**Sent:** Thursday, August 30, 2018 12:11 PM  
**To:** marcalpert2015@gmail.com  
**Cc:** Visocchi, Julia A.; Lantry, Jacob J.; GGarcia@morrisonmahoney.com; 'Messinger, Kate'  
**Subject:** RE: Kashper: Deposition Dates

Marc, I need to hear from you about the dates for our experts' depositions. Please respond as soon as possible.

Regarding the deposition of Marius Ziejewski, I intend to proceed on the date offered, September 18<sup>th</sup> consistent with the deposition notice I served and will book my travel plans today.

Dave Rogers  
Campbell Campbell Edwards & Conroy  
1 Constitution Wharf, Suite 310  
Boston MA 02129  
w: 617 241-3063  
c: 617 285-9091  
[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)

---

**From:** Rogers, David M.  
**Sent:** Wednesday, August 29, 2018 12:43 PM  
**To:** [marcalpert2015@gmail.com](mailto:marcalpert2015@gmail.com)  
**Cc:** Visocchi, Julia A.; Lantry, Jacob J.  
**Subject:** Kashper: Deposition Dates

Marc, I offered October 25th for Tandy (he also has Sep 18 and 19 available but of course we can't do those because of Ziejewski's depositions) and September 20, October 5 and 8 for Van Arsdell. Please let me know as soon as possible which of these dates you select. Both experts are being asked to schedule other matters for those dates.

Dave Rogers  
Campbell Campbell Edwards & Conroy  
1 Constitution Wharf, Suite 310  
Boston MA 02129  
w: [617 241-3063](tel:6172413063)  
c: [617 285-9091](tel:6172859091)  
[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)

**Rogers, David M.**

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**From:** Rogers, David M.  
**Sent:** Tuesday, August 28, 2018 12:59 PM  
**To:** 'Marc Alpert'; GGarcia@morrisonmahoney.com; 'Messinger, Kate'  
**Subject:** Kashper: NOD Mariusz Ziejewski, Ph.D. 09.18.18 at 9amCST/10amEST  
**Attachments:** 2018.08.28 LT Counsel enc NOD Mariusz Ziejewski, Ph.D..PDF; 2018.08.28 NOD Mariusz Ziejewski, Ph.D..PDF

All, see the attached deposition notice for Mariusz Ziejewski.

Dave Rogers  
Campbell Campbell Edwards & Conroy  
1 Constitution Wharf, Suite 310  
Boston MA 02129  
w: 617 241-3063  
c: 617 285-9091  
[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ANNA V. KASHPER, individually, and as mother  
and next friend of Three Minors and as personal  
representative of the ESTATE OF KONSTANTIN  
M. KASHPER,

Plaintiff,

VS.

TOYOTA MOTOR SALES, U.S.A., INC.;  
TOYOTA MOTOR CORPORATION;  
ENTERPRISE FM TRUST; ENTERPRISE FLEET  
MANAGEMENT; JOHN DOE 1; JOHN DOE 2  
and JOHN DOE 3,

Defendants.

C.A. No. 1:17-cv-12462-WGY

**NOTICE OF TAKING DEPOSITION OF MARIUSZ ZIEJEWSKI, PH.D.**

TO: Marc S. Alpert  
Marc S. Alpert, P.C.  
15 Court Square, #940  
Boston, MA 02108

Grace Garcia, Esq.  
Morrison Mahoney  
250 Summer Street  
Boston, MA 02210

DEPONENT: Mariusz Ziejewski, Ph.D.

DATE: Tuesday, September 18, 2018

TIME: 9:00 a.m. C.S.T. / 10:00 a.m. E.S.T.

PLACE: Doug Ketcham & Associates  
51 Broadway, Suite 130  
Fargo, ND 58102  
(701) 237-0275

PLEASE TAKE NOTICE that pursuant to Federal Rules of Civil Procedure 30, counsel for defendant, Toyota Motor Sales, U.S.A., Inc., will take the deposition upon oral examination of Mariusz Ziejewski, Ph.D., at the date and time herein above referred to, before a Notary Public or other duly qualified person, at the offices of Doug Ketcham & Associates, 51 Broadway, Suite 130, Fargo, ND 58102, 701-237-0275, at which time and place you are notified to appear.

The oral examination will continue from day to day until completed. You are invited to attend and cross-examine the witness.

The deponent is instructed to bring the materials identified in the attached Schedule A.

**TOYOTA MOTOR SALES, U.S.A., INC**

By its Attorneys,

CAMPBELL CAMPBELL EDWARDS & CONROY, P.C.



---

James M. Campbell (BBO #541882)  
David M. Rogers (BBO #542233)  
Jacob J. Lantry (BBO #690452)  
One Constitution Wharf, Suite 310  
Boston, MA 02129  
Tel: (617) 241-3000  
Fax: (617) 241-5115




**CERTIFICATE OF SERVICE**

On August 28, 2018, I, David M. Rogers, served by electronic mail and regular mail the foregoing document on all parties of record.

Marc S. Alpert  
Marc S. Alpert, P.C.  
15 Court Square, #940  
Boston, MA 02108

Grace Garcia, Esq.  
Morrison Mahoney  
250 Summer Street  
Boston, MA 02210

A handwritten signature in black ink, appearing to read 'D. M. Rogers', is written above a horizontal line.

David M. Rogers

SCHEDULE A

The deponent is requested to bring to the deposition his complete file and in particular all of the following documents relative to:

***Anna Kashper v. Toyota Motor Sales, U.S.A., Inc., et al***  
**USDC Massachusetts, Docket No. C.A. No. 1:17-cv-12462-WGY**

1. The witness's most current CV including a list of all papers written by the witness.
2. A list of cases in which the witness has testified, in trial or deposition.
3. All photographs and videotapes taken by or for the witness in connection with his work on this case. (As defense counsel will want prints of these materials, he requests for the sake of convenience that the witness have prints made for him in advance of the deposition, for which he will reimburse the witness.)
4. All photographs and videotapes reviewed by the witness in connection with his work on this case. (As defense counsel will want electronic copies of these materials, he requests for the sake of convenience that the witness have such copies made for him in advance of the deposition, for which he will reimburse the witness.)
5. All reports prepared by the witness in connection with his work on this case.
6. All notes, memoranda, sketches, calculations, summaries and outlines prepared by or for the witness in connection with his work on this case.
7. The complete contents of all files assembled or maintained by or for the witness in connection with his work on this case.
8. All books, reports, specifications, treatises, studies, literature and articles consulted by the witness in connection with his work on this case and/or which contain information on which the witness relies in support of his opinions in this case.
9. All correspondence from other persons relating to this case.
10. All correspondence to other persons relating to this case.
11. All witness statements reviewed by the witness in connection with his work on this case.
12. All deposition transcripts and exhibits reviewed by the witness in connection with his work on this case.
13. All technical specifications reviewed by the witness in connection with his work on this case.

14. All documents generated or produced by the defendant reviewed by the witness in connection with his work on this case.
15. All police reports, ambulance reports, medical records, films and other official reports reviewed by the witness in connection with his work on this case.
16. All exemplar vehicles and exemplar parts inspected by the witness in connection with his work on this case.
17. All models and mock-ups constructed by or for the witness in connection with his work on this case.
18. All data generated through computer analyses done by or for the witness in connection with his work on this case, whether or not it has previously been reduced to hard copy.
19. All input data relative to computer analyses done by or for the witness in connection with his work on this case, whether or not it has previously been reduced to hard copy.
20. All drawings, schematics, diagrams, computer graphics and/or simulations prepared by or for the witness in connection with his work on this case.
21. All plans and surveys of the accident scene prepared by or for the witness, or reviewed by the witness, in connection with his work on this case.
22. All physical evidence retrieved from the accident scene.
23. All physical evidence taken from the subject vehicle.
24. All traffic accident data obtained by or for the witness in connection with his work on this case from publicly accessible databases, including without limitation FARS, NASS and the databases maintained by state agencies.
26. All billings, invoices, receipts and other documents reflecting time spent and rate charged on the assignment and work, done in this case.
27. Reports, notes, memoranda, videotapes, photographs or other materials which depict, contain or describe testing done in this case.
28. Reports, notes, memoranda, videotapes, photographs or other materials which depict, contain or describe testing upon which the witness relies as the basis for his opinions in this case.
29. Documents, data, reports, DVDs, videotapes and/or other materials which contain information upon which the witness relies as the basis for his opinions in this case.

CAMPBELL CAMPBELL EDWARDS & CONROY  
PROFESSIONAL CORPORATION



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TEL: (617) 241 3000  
FAX: (617) 241 5115

DAVID M. ROGERS  
(617) 241-3063  
[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)

August 28, 2018

Marc S. Alpert, Esq.  
Marc S. Alpert, P.C.  
15 Court Square  
Boston, MA 02108

Grace Garcia, Esq.  
Morrison Mahoney  
250 Summer Street  
Boston, MA 02210

Re: *Anna Kashper v. Toyota Motor Sales, U.S.A., Inc., et al*  
USDC Massachusetts, Docket No. C.A. No. 1:17-cv-12462-WGY

Dear Counsel:

Enclosed is a Notice of Taking Deposition of Mariusz Ziejewski, Ph.D. scheduled to take place on Tuesday, September 18, 2018 at 9am CST / 10am EST at the offices of Doug Ketcham & Associates, 51 Broadway, Suite 130, Fargo, ND 58102.

Thank you for your attention in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "David M. Rogers", written over a horizontal line.

David M. Rogers

DMR:jav  
Enclosure

cc: James M. Campbell, Esq. (w/out enc.)  
Jacob J. Lantry, Esq. (w/out enc.)

**Rogers, David M.**

---

**From:** Rogers, David M.  
**Sent:** Tuesday, August 28, 2018 9:06 AM  
**To:** 'Marc Alpert'; GGarcia@morrisonmahoney.com; 'Messinger, Kate'  
**Cc:** Lantry, Jacob J.  
**Subject:** Kashper: Expert Depositions

Marc, I am going to take Dr. Ziejewski's deposition in person instead of via AV Conference in Fargo ND on September 18<sup>th</sup>. I am working on a location and as soon as I have it I will send out the deposition notice.

Dave Rogers  
Campbell Campbell Edwards & Conroy  
1 Constitution Wharf, Suite 310  
Boston MA 02129  
w: 617 241-3063  
c: 617 285-9091  
[drogers@campbell-trial-lawyers.com](mailto:drogers@campbell-trial-lawyers.com)